

MT LEGISLATIVE HISTORY

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Chapter 156 1989

Bill H 262 S _____

Original bill & hist. ☒ C

H. Committee on Bus. & Econ. Dev.

S. Committee on Bus. & Industry

Hearing Date(s) _____ C

Hearing Date(s) _____ C

1/26 ☒ C

2/28 ☒ C

_____ C

_____ C

_____ C

_____ C

Date Out 1/26 ☒ C

2/28 ☒ C

Did this bill originate in an interim committee? Yes ☒ No

Committee _____

Report _____

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HOUSE BILL NO. 262

INTRODUCED BY HOFFMAN

IN THE HOUSE

JANUARY 17, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS AND ECONOMIC DEVELOPMENT.

JANUARY 18, 1989 FIRST READING.

JANUARY 27, 1989 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 28, 1989 PRINTING REPORT.

JANUARY 30, 1989 SECOND READING, DO PASS.

JANUARY 31, 1989 ENGROSSING REPORT.

FEBRUARY 1, 1989 THIRD READING, PASSED.
AYES, 76; NOES, 22.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

FIRST READING.

FEBRUARY 28, 1989 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 2, 1989 SECOND READING, CONCURRED IN.

MARCH 4, 1989 THIRD READING, CONCURRED IN.
AYES, 46; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 6, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 7, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 262
2 INTRODUCED BY Hoffman
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 LAWS RELATING TO CREDIT LIFE AND CREDIT DISABILITY
6 INSURANCE; AND AMENDING SECTIONS 33-1-501, 33-21-102 THROUGH
7 33-21-105, 33-21-113, AND 33-21-201 THROUGH 33-21-207, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 33-1-501, MCA, is amended to read:

11 "33-1-501. Filing and approval of forms. (1) No
12 insurance policy or annuity contract form, application form,
13 printed rider or endorsement form, or form of renewal
14 certificate shall may be delivered or issued for delivery in
15 this-state Montana unless the form has been filed with and
16 approved by the commissioner ~~of--this--state~~ and the
17 regulatory official of the state of domicile of the insurer,
18 ~~where-so~~ if required. This provision shall does not apply to
19 surety bonds or policies, riders, endorsements, or forms of
20 unique character designed for and used with relation to
21 insurance upon a particular subject or ~~which~~ that relate to
22 the manner of distribution of benefits or to the reservation
23 of rights and benefits under life or disability insurance
24 policies and are used at the request of the individual
25 policyholder, contract holder, or certificate holder. As to

1 forms for use in property, marine (other than ocean marine
2 and foreign trade coverages), casualty, and surety insurance
3 coverages, the filing required by this subsection may be
4 made by a rating organization on behalf of its members and
5 subscribers, but this provision ~~shall~~ does not be deemed to
6 prohibit ~~any-such~~ a member or subscriber from filing ~~any~~
7 ~~such a~~ forms form on its own behalf.

8 (2) ~~Every--such~~ The filing ~~shall~~ must be made not less
9 than 60 days in advance of ~~any--such~~ delivery. Approval of
10 ~~any--such a~~ form by the commissioner ~~shall--constitute~~
11 constitutes a waiver of any unexpired portion of ~~such the~~
12 waiting period. The commissioner may extend by not more than
13 an additional 60 days the period within which he may so
14 affirmatively approve or disapprove ~~any--such a~~ form by
15 giving notice of ~~such the~~ extension before expiration of the
16 initial 60-day period. The commissioner may at any time,
17 after notice and for cause shown, withdraw any ~~such~~
18 approval.

19 (3) ~~Any~~ An order of the commissioner disapproving any
20 ~~such a~~ form or withdrawing a previous approval ~~shall~~ must
21 state the grounds ~~therefor-and-the-particulars-thereof~~ for
22 disapproval or withdrawal in ~~such-details~~ sufficient detail
23 ~~as-reasonably~~ to inform the insurer thereof.

24 (4) The commissioner may by order exempt from the
25 requirements of this section for so long as he deems

1 considers proper any an insurance document, or form, or type
 2 of document or form thereof-as specified in such the order
 3 to which, in his opinion, this section may not practicably
 4 be applied or the filing and approval of which are, in his
 5 opinion, not desirable or necessary for the protection of
 6 the public.

7 (5) This section ~~shall-apply~~ applies also to any-such
 8 a form used by a domestic insurers insurer for delivery in a
 9 jurisdiction outside ~~this-state~~ Montana if the insurance
 0 supervisory official of ~~such the~~ jurisdiction informs the
 1 commissioner that ~~such the~~ form is not subject to approval
 2 or disapproval by ~~such the~~ official and upon the
 3 commissioner's order requiring the form to be submitted to
 4 him for the purpose. The ~~applicable~~ same standards ~~shall~~
 5 apply to ~~such these~~ forms as apply to forms for domestic
 6 use.

7 (6) This section and 33-1-502 ~~shall do~~ not apply as
 8 to:

9 (a) reinsurance;

0 (b) policies or contracts not issued for delivery in
 1 ~~this--state~~ Montana or delivered in ~~this-state~~ Montana,
 2 except as provided in subsection (5);

3 (c) ocean marine and foreign trade insurances.

4 (7) ~~As~~ Except as provided in chapter 21, to group
 5 certificates that are delivered or issued for delivery in

1 Montana for group insurance policies effectuated and
 2 delivered outside ~~this--state~~ Montana but covering persons
 3 resident in ~~this-state~~ Montana,~~---group--certificates--which~~
 4 ~~are--delivered--or--issued--for-delivery-in-this-state-shall~~
 5 must be filed with the commissioner upon his request."

6 **Section 2.** Section 33-21-102, MCA, is amended to read:

7 "33-21-102. Purpose and scope. (1) The purpose of this
 8 chapter is to promote the public welfare by regulating
 9 credit life insurance and credit disability insurance.
 10 Nothing in this chapter is intended to prohibit or
 11 discourage reasonable competition. The provisions of this
 12 chapter shall be liberally construed.

13 (2) ~~At~~ Except as provided in subsection (3), this
 14 chapter applies to each policy, certificate of insurance,
 15 notice of proposed insurance, binder, endorsement, and rider
 16 of life insurance and ~~at~~ disability insurance ~~sold~~
 17 delivered or issued for delivery in Montana in connection
 18 with loans or other credit transactions for personal,
 19 family, or household purposes. shall--be--subject-to-the
 20 provisions-of-this-chapter-except-such-insurance-sold

21 (3) This chapter does not apply to life insurance or
 22 disability insurance delivered or issued for delivery in
 23 connection with:

24 (a) a loan or other credit transaction of more than 15
 25 years' duration;

(b) a credit transaction that is:

(i) secured by a first mortgage or deed of trust; and

(ii) made to finance the purchase of real property or the construction of a dwelling thereon or to refinance a prior credit transaction made for that purpose; or

(c) a credit transaction that is an isolated transaction on the part of the insurer and that is not related to an agreement or a plan for insuring debtors of the creditor."

Section 3. Section 33-21-103, MCA, is amended to read:

"33-21-103. Definitions. For-the-purposes-of As used **in this chapter, the following definitions apply:**

(1) "Credit disability insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

(3) "Creditor" means:

(a) the a lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction or;

(b) any successor to the right, title, or interest of such a lender, vendor, or lessor;

(c) an affiliate, associate, or subsidiary of a lender, vendor, or lessor;

(d) a director, officer, or employee of a lender, vendor, or lessor; or

(e) any other person in any way associated with a lender, vendor, or lessor.

(4) "Credit transaction" means a transaction by the terms of which, at a future date:

(a) repayment of money loaned is made;

(b) a loan commitment is made; or

(c) payment for goods, services, or property sold or leased is made.

{4}{5} "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

{5}{6} "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

(7) "Open-end credit" means credit extended by a creditor under an agreement in which:

(a) the creditor reasonably contemplates repeated transactions;

(b) the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and

1 (c) the amount of credit that may be extended to the
 2 debtor during the term of the agreement (up to any limit set
 3 by the creditor) is generally made available to the extent
 4 that any outstanding balance is repaid."

5 **Section 4.** Section 33-21-104, MCA, is amended to read:

6 "33-21-104. Existing insurance -- choice of insurer.
 7 When credit life insurance or credit disability insurance is
 8 required as additional security for any an indebtedness, the
 9 debtor ~~shall~~, upon request to the creditor, ~~have~~ has the
 0 option of furnishing the required amount of insurance
 1 through existing policies of insurance owned or controlled
 2 by him or of procuring and furnishing the required coverage
 3 through any an insurer authorized to transact ~~an~~ insurance
 4 ~~business~~ within ~~this-state~~ Montana."

5 **Section 5.** Section 33-21-105, MCA, is amended to read:

6 "33-21-105. Claims. (1) ~~All-claims-shall~~ A claim must
 7 be promptly reported to the insurer or its designated claim
 8 representative, and the insurer shall maintain adequate
 9 claim files. ~~All--claims--shall~~ A claim must be settled as
 0 soon as possible and in accordance with the terms of the
 1 insurance contract.

2 (2) ~~All--claims--shall~~ A claim must be paid either by
 3 draft drawn upon the insurer or by check of the insurer to
 4 the order of the claimant to whom payment of the claim is
 5 due pursuant to the policy provisions or upon direction of

1 ~~such the~~ claimant to one specified.

2 (3) No plan or arrangement ~~shall may~~ be used whereby
 3 any a person, firm partnership, or corporation other than
 4 the insurer or its designated claim representative ~~shall-be~~
 5 is authorized to settle or adjust claims. The creditor ~~shall~~
 6 may not be designated as claim representative for the
 7 insurer in adjusting claims, except that a group
 8 policyholder may, by arrangement with the group insurer,
 9 draw drafts or checks in payment of claims due to the group
 10 policyholder subject to audit and review by the insurer."

11 **Section 6.** Section 33-21-113, MCA, is amended to read:

12 "33-21-113. Penalties. In addition to any penalty
 13 provided by law, any a person who violates an order of the
 14 commissioner after it has become final and while ~~such the~~
 15 order is in effect shall, upon proof thereof to the
 16 satisfaction of the court, forfeit and pay to the state of
 17 Montana a sum not to exceed \$250 which may be recovered in a
 18 civil action, except that if ~~such the~~ violation is found to
 19 be willful, the amount of ~~such the~~ penalty ~~shall-be~~ is a sum
 20 not to exceed \$1,000. The commissioner, in his discretion,
 21 may revoke or suspend the license or certificate of
 22 authority of the person, partnership, or corporation guilty
 23 of such violation. ~~Such The~~ order for suspension or
 24 revocation ~~shall-be~~ is subject to judicial review as
 25 provided in 33-1-711."

Section 7. Section 33-21-201, MCA, is amended to read:

"33-21-201. Form of issuance. Credit An insurer may deliver or issue for delivery credit life insurance and credit disability insurance shall-be-issued only in the following forms:

(1) individual policies of life insurance issued to debtors on the a term plan;

(2) individual policies of disability insurance issued to debtors on a term plan or disability benefit provisions in individual life policies to--provide--such--coverage of credit life insurance;

(3) group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the a term plan;

(4) group policies of disability insurance issued to creditors on a term plan insuring debtors or disability provisions in group credit life insurance policies to provide such coverage."

Section 8. Section 33-21-202, MCA, is amended to read:

"33-21-202. Amount. (1) The initial amount of credit life insurance shall-be-equal-to-the may not exceed the total amount repayable under the contract of indebtedness, provided--that-the-original-indebtedness-does-not-exceed-the sum-of-\$15,000--if-the-original-indebtedness-exceeds-the-sum of-\$15,000--the-amount-of-credit-life--insurance--shall--not

exceed---the---indebtedness--- Where If an indebtedness is repayable in substantially equal installments, is-secured-by-an-individual-policy the amount of credit life insurance the-amount-of-insurance-shall may not exceed the approximate scheduled or actual amount of unpaid indebtedness on the date of death, and-where-secured-by-a-group-policy-of-credit life-insurance-shall-not-exceed-the-exact-amount--of--unpaid indebtedness--on--such-date whichever is greater. The amount of credit life insurance written in connection with:

(a) a credit transaction repayable over a term excess of 63 months or, at the option of the insurer, for shorter term may not exceed the actual amount of unpaid indebtedness on the date of death, less any:

(i) unearned interest or finance charges; and

(ii) delinquency or extension exceeding 4 months;

(b) an open-end credit agreement having a credit limit exceeding \$10,000 may not exceed the plan's credit limit Except--that

(c) an agricultural loans loan commitment exceeding 1 year may be-written-up-to not exceed the amount of the loan commitment on a nondecreasing or level plan; and

(d) an education loan commitment may be for the amount of the portion of the commitment that has not been advanced by the creditor.

(2) The amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, ~~shall be equal to~~ may not exceed:

(a) the aggregate of the periodic scheduled unpaid installments of indebtedness; and

(b) ~~shall not exceed the original indebtedness divided by the number of periodic installments, provided that the original indebtedness does not exceed the sum of \$15,000. If the original indebtedness exceeds the sum of \$15,000, the amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of indebtedness and shall not exceed the original indebtedness divided by the number of periodic installments.~~

Section 9. Section 33-21-203, MCA, is amended to read:

"33-21-203. Term. (1) The term of any credit life insurance or credit disability insurance ~~shall commence,~~ subject to acceptance by the insurer, ~~commence~~ on the date when on which the debtor becomes obligated to the creditor, ~~except that, where. However, if~~ a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such the indebtedness ~~shall commence commences~~ on the effective date of the policy.

(2) When evidence of insurability is required and the

evidence is furnished more than 30 days after the date on which the debtor becomes obligated to the creditor, the term of the insurance may commence on the date the insurer determines the evidence is satisfactory. In that event, the insurer shall make an appropriate refund or adjustment of any charge to the debtor for insurance.

(3) The term of ~~such the~~ insurance ~~shall may~~ not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor, but the term of the insurance may be less than the term of the credit transaction to provide modified or partial coverage or extend beyond the maturity date to provide coverage consistent with 33-21-202(1)(a).

(4) If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force ~~shall must~~ be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund ~~shall must~~ be paid or credited as provided in 33-21-206."

Section 10. Section 33-21-204, MCA, is amended to read:

"33-21-204. Policy or certificate delivered -- time of delivery -- provisions. (1) All credit life insurance and credit disability insurance sold ~~shall must~~ be evidenced by

an individual policy or, in the case of group insurance, by a certificate of insurance, which individual policy or group certificate of insurance ~~shall~~ must be delivered to the debtor at the time the indebtedness is incurred except as hereinafter provided.

(2) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for ~~such~~ the policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name ~~or--names~~ of the each debtor, the premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance coverage, the amount, term, and a brief description of the coverage provided or to be provided, ~~shall~~ must be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for or notice of proposed insurance must also ~~shall~~ refer exclusively to insurance coverage and ~~shall~~ must be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this section is prominently set forth therein. Upon approval by the insurer of the application for insurance, ~~if--any,~~ or acceptance of the insurance by the insurer and within 30 days of the date upon which the

indebtedness is incurred, the insurer shall ~~cause deliver~~ the individual policy or group certificate of insurance ~~to be--delivered~~ to the debtor. The application or notice of proposed insurance ~~shall~~ must state that, upon acceptance by the insurer, the insurance ~~shall-become~~ becomes effective as of the date the indebtedness is incurred. If the name insurer does not accept the risk, the debtor must receive policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged. If the amount of premium is less than that set forth in the notice of proposed insurance, the insurer shall make an appropriate refund.

(3) Each individual policy or group certificate of credit life insurance and credit disability insurance ~~shall~~ must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name each debtor or, in the case of a group certificate of insurance, and the identity by name or otherwise of the person-or-persons-insured debtor, the rate premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance a description of the coverages, including the amount term thereof and any exceptions, limitations, restrictions, and ~~shall~~ must state that the benefits ~~sh~~

must be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall ~~must~~ be payable to a beneficiary, other than the creditor, named by the debtor or to his estate. If the term of the insurance is less than the term of the loan, that fact must be stated on the face of the individual policy or group certificate in not less than 10-point boldface type.

(4) For the purposes of subsections (1) and (2), an individual policy or group certificate of insurance delivered in connection with an open-end credit agreement is considered to be delivered at the time the indebtedness is incurred if delivery occurs on or before the date the indebtedness is incurred."

Section 11. Section 33-21-205, MCA, is amended to read:

"33-21-205. Filing, approval, and withdrawal of forms -- and rates -- disapproval. (1) With respect to credit life insurance or credit disability insurance:

(a) All-policies a policy, certificates certificate of insurance, notices notice of proposed insurance, applications application for insurance, binders binder, endorsements endorsement, and-riders-shall-be or rider may not be delivered or issued for delivery in Montana unless it has been filed with and approved by the commission

commissioner, in accordance with 33-1-501, and the regulatory official of the state in which the-policy it is issued; and

(b) a schedule of premium rates pertaining to a policy, certificate of insurance, notice of proposed insurance, application for insurance, binder, endorsement, or rider may not be used in Montana unless it has been filed with the commissioner.

(2) The In accordance with 33-1-501, the commissioner may within--30--days--after--the--filing--of--all--policies disapprove a policy, certificates certificate of insurance, notices notice of proposed insurance, applications application for insurance, binders binder, endorsements7-and riders7-in-addition-to-other-requirements-of-law7-disapprove any-such-form endorsement, or rider:

(a) for a reason listed in 33-1-502;

(b) if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits; or

(c) if it contains provisions which that are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of such-policy the insurance.

(3) If the commissioner notifies the insurer that the a form does-not-comply-with-this-section is disapproved, it is unlawful thereafter for such the insurer to issue or use

such the form. In--such--notice,--the--commissioner--shall specify--the--reason--for--his--disapproval--and--state--that--a hearing--will--be--granted--within--20--days--after--request--in writing--by--the--insurer,--No--such--policy,--certificate--of insurance,--notice--of--proposed--insurance,--and--no--application, binder,--endorsement,--or--rider--shall--be--issued--or--used--until the--expiration--of--30--days--after--it--has--been--so--filed,--unless the--commissioner--gives--his--prior--written--approval--thereto.

{4}--The commissioner may, at any time after a hearing, of which not less than 20 days' written notice was given to the insurer, withdraw his approval of any such form on any of such grounds.

{5}--It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal of approval.

{6}{4} Any An order or final determination of the commissioner under the provisions of this section shall be is subject to judicial review."

Section 12. Section 33-21-206, MCA, is amended to read:

"33-21-206. Premiums and refunds. (1) Each insurer issuing credit life insurance or credit disability insurance shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise such the schedules from time to time and shall

file such the revised schedules with the commissioner. N insurer shall may issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by 33-21-205.

(2) Each individual policy, group certificate insurance, or notice of proposed insurance of credit life insurance and credit disability insurance shall must provide that, if in the event of termination of the insurance policy to is terminated before the scheduled maturity date of indebtedness, any refund of premium due shall or amount payable by the debtor for insurance must be paid or credited promptly to the person entitled thereto; provided, however that the commissioner shall prescribe a minimum refund no refund which would be less than such minimum need made. The formula to be used in computing refunds shall must be filed with and approved by the commissioner.

(3) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit disability insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such the debtor and shall

promptly make an appropriate credit to the account.

(4) The amount charged to a debtor for any credit life insurance or credit disability insurance ~~shall~~ may not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

(5) Nothing in this chapter may be construed to authorize any payments for insurance prohibited under a statute, or rule thereunder, governing credit transactions."

Section 13. Section 33-21-207, MCA, is amended to read:

"33-21-207. Issuance of policies. ~~All policies~~ Each policy, certificate of insurance, or notice of proposed insurance of credit life insurance and credit disability insurance ~~shall~~ must be delivered or issued for delivery in ~~this--state~~ Montana only by an insurer authorized to ~~do-on~~ transact insurance ~~business-therein in Montana~~ and ~~shall~~ must be issued only through holders of licenses or authorizations issued by the commissioner."

NEW SECTION. **Section 14.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 15.** Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this

1 act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are
3 severable from the invalid applications.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on January 26, 1989,
at 8:30 a.m.

ROLL CALL

Members Present: All with the exception of:

Members Excused: None

Members Absent: Rep. Rob Blotkamp

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

HEARING ON HOUSE BILL 262

Presentation and Opening Statement by Sponsor: Rep.
Hoffman, District 74, stated that HB 262 revises the
laws relating to credit life and credit disability
insurance in an effort to promote uniformity.

List of Testifying Proponents and What Group They Represent:
Neysha A. Humphreys
Kathy Irigoin
James Borchardt
Mike Sherwood, MTLA
Bob Pyfer, Montana Credit Unions League
Larry Akey, MT Association of Life Underwriters

List of Testifying Opponents and What Group They Represent:
None

Testimony: Ms. Irigoin had written testimony. See exhibit
1.

Mr. Pyfer stated that his association is in support of
this bill. The credit unions will provide to their
members credit life and credit disability insurance at
no additional charge. There are a couple of technical
difficulties with the bill, and, therefore, the
amendments on page 19, line 17 and page 14, line 20,

that Kathy alluded to, we feel are quite important. The one on page 14, line 20, changing premium to rate is important to avoid conflict with the federal regulations. The second amendment on page 19, line 17, referring to the exclusion for insurance agents, where there is no commission being paid, is important to allow credit unions to continue to provide that service at no additional charge and at no commission.

Mr. Akey stated his association supports this bill and asks for a do pass recommendation.

Ms. Humphreys stated that her association supports the bill.

Questions From Committee Members: None

Closing by Sponsor: Rep. Hoffman stated that there was a lot of outside interest in the bill from people in the private sector. The state auditor's office is satisfied with the bill. I hope you will concur with them and pass the bill

DISPOSITION OF HOUSE BILL 262

Motion: Rep. Bachini moved a DO PASS.

Discussion: None

Amendments and Votes: Rep. Bachini moved a DO PASS on the amendments. See the attached copy of the amendments.

Recommendation and Vote: HB 262 received an unanimous DO PASS as amended.

HEARING ON HOUSE BILL 258

Presentation and Opening Statement by Sponsor: Rep. Spaeth, District 84. This bill will establish a board of passenger tramway safety. It gives the tramway board the responsibilities and duties to regulate the operation of tramways in the state of Montana.

List of Testifying Proponents and What Group They Represent:
Tim Prather, Red Lodge Mountain Ski Area, Red Lodge
Terry Allyn, Bridger Bowl Ski Area, Bozeman
Pat Melby, Montana Ski Area Assoc.
Jim Kembel, Dept. of Commerce
Norm Kurtz, Big Mountain, Whitefish

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Amendments to House Bill No. 262
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
January 26, 1989

1. Page 14, line 20.

Strike: "premium"

Insert: "rate"

2. Page 16, line 9.

Strike: "In"

Insert: "With respect to credit life insurance or credit
disability insurance and in"

3. Page 17, line 16.

Following: "Any"

Insert: "An insurer may not issue or use a form after the
commissioner withdraws approval of the form pursuant to 33-
1-501."

4. Page 19, line 17.

Following: "must"

Insert: ", except as provided in 33-17-103,"

5. Page 19, lines 17 and 18.

Following: "through" on line 17

Strike: the remainder of line 17 and through "commissioner" on
line 18

Insert: "a licensed insurance agent"

Kathy M. Irigoin
State Auditor's Office
444-2040

AMENDMENT TO HOUSE BILL 262
January 26, 1989

1. Page 14, line 20.

Strike: "premium"

Insert: "rate"

2. Page 16, line 9.

Strike: "In"

Insert: "With respect to credit life insurance or credit
disability insurance and in"

3. Page 17, line 16.

Following: "(4) Any"

Insert: "An insurer may not issue or use a form after the
commissioner withdraws approval of the form pursuant to
33-1-501."

4. Page 19, line 17.

Following: "must"

Insert: ", except as provided in 33-17-103,"

5. Page 19, lines 17 through 18.

Strike: "holders of licenses or authorizations issued by the
commissioner"

Insert: "a licensed insurance agent"

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TESTIMONY ON HOUSE BILL 262
STATE AUDITOR'S OFFICE
January 26, 1989

I. General introduction

The general purpose of this bill is to update the laws relating to credit life and credit disability insurers transacting insurance in Montana. In an effort to promote uniformity of insurance laws among states, the bill is patterned after a model bill drafted by the National Association of Insurance Commissioners (NAIC).

II. Section-by-section explanation

Section 1 and section 11 prohibit an insurer from delivering or issuing for delivery a policy or certificate of credit life or credit disability insurance before it is filed with and approved by the commissioner. The scope of the credit life and credit disability insurance laws is restricted in section 2. Definitions for "credit transaction" and "open-end credit" are added in section 3.

Section 8 of the bill has two effects: (1) it eliminates the unsupported distinction between loans of \$15,000 or less and loans exceeding \$15,000*; and (2) it recognizes the controversy surrounding the amount of coverage (gross versus net), acknowledging that various techniques are available to provide a benefit that covers delinquencies and thereby precludes the development of deficiency balances when coverage is restricted to "net".

In response to recent developments in the financial services industry, which underscore the need for flexibility and innovation in credit life and credit disability insurance, section 9 of the bill provides for truncated (partial) or critical period credit life and credit disability coverages or for delinquency, extensions, or other repayment variations by clarifying that the term of insurance might not coincide with the term of the credit transaction. Subsection (4) of section 10 clarifies that an individual policy or group certificate of insurance delivered in connection with an open-end credit (defined in section 2 of the bill) agreement is considered to be delivered at the time the indebtedness is incurred if delivery occurs on or before the date the indebtedness is incurred.

Each section includes stylistic changes suggested in the Legislative Council's Bill Drafting Manual.

*(Under current law, if the amount of the indebtedness is \$15,000 or less, the amount of credit life insurance must equal

the amount of the indebtedness. If the amount of the indebtedness exceeds \$15,000, then the amount of the credit life insurance may not exceed, but may be less than, the amount of the indebtedness.)

III. Amendments

To address industry concerns and correct minor errors, I propose five amendments. The first amendment simply corrects an inadvertent error, changing "premium" back to "rate". The second amendment clarifies that the authority conferred, in section 11, upon the Commissioner of Insurance to disapprove a form is limited to disapproval of a form relating to credit life or credit disability insurance. Consistent with both current Montana law and the NAIC Model from which this bill was drafted, the third amendment clarifies that an insurer may not issue or use a form after the commissioner withdraws approval of the form. The last two amendments clarify that, in limited circumstances, a certificate of credit life or credit disability insurance may be issued only through a licensed insurance agent.

IV. Conclusion

House Bill 262 updates Montana's credit life and credit disability insurance laws and makes them more like the laws in surrounding states. The State Auditor's Office urges this committee to give House Bill 262 a "do pass" recommendation.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Thayer, on February 28, 1989, at
10:00 a.m., Room 410

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer,
Senator Boylan, Senator Noble, Senator Williams,
Senator Hager, Senator McLane, Senator Weeding
Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 262

Presentation and Opening Statement by Sponsor:

Representative Hoffman, House District 74, said HB 262 dealt with updating the laws regulating the credit life and disability insurers of Montana, and was requested by the State Auditor. He said the bill was an effort to promote uniformity of insurance laws among states, and was patterned after a model bill drafted by the National Association of Insurance Commissioners. He said he would have a representative from the Auditor's Office explain the bill.

List of Testifying Proponents and What Group They Represent:

Jim Borchardt - State Auditor's Office
Bob Pyfer - Vice President, Montana Credit Unions
League
Larry Akey - Montana Association of Underwriters

List of Testifying Opponents and What Group They Represent:

None

Testimony: Jim Borchardt said he would like to briefly present a section by section explanation of the bill. He followed written Exhibit #3 in his delivery.

He said he was presenting an amendment to clarify an industry concern, as to the possible misinterpretation of the bill. (See Exhibit #2) He said the amendment was to page 10, line 13, and helped define the actual amount of unpaid indebtedness on the date of death. He concluded by stating that HB 262 updated Montana's credit life and credit disability insurance laws, and made them more like the laws in surrounding states. He said the State Auditor's Office urged passage of the bill.

Bob Pyfer said he had sent a copy of HB 262 to their legal department, because it involved credit life and disability. He said their legal department had expressed a couple of concerns, but those had been taken care of in the House. He said they had worked with the commissioner's office, and with Representative Hoffman, to amend the bill. He stated the notable amendment was to make sure the existing law provisions, that allowed credit union's to continue their loan protection program, were not affected. He said their loan protection program provided free, non-commission credit life insurance to members. He stated they had merely wanted to make sure no licensing would be required by the current law. He said they wholeheartedly supported HB 262, as amended.

Larry Akey said they supported HB 262 as it was amended in the House. He asked the committee to give the bill passage.

Questions From Committee Members: None

Closing by Sponsor: Representative Hoffman said HB 262 was nothing but a housekeeping bill, and of a very technical substance. He stated the bill had the support of the outside interests, who were affected.

DISPOSITION OF HOUSE BILL 262

Discussion: None

Amendments and Votes: Senator Lynch moved the amendment in exhibit #2. Senator Noble seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Lynch moved HB 262 BE
CONCURRED IN AS AMENDED. Senator Noble seconded the
motion. The motion Carried Unanimously. Senator
Boylan carried HB 262 on the Senate floor.

HEARING ON HOUSE BILL 247

Presentation and Opening Statement by Sponsor:

Representative Whalen termed HB 247 as the regional rate making bill. He said it essentially allowed the insurance commissioner to collect insurance industry information from states with similar demographic characteristics to Montana, concerning noncompetitive or volatile insurance matters. He said noncompetitive was described as only a small number of insurers who were willing to transact a particular line of insurance in Montana, and volatile referred to a low volume of claims, with regard to a particular line of insurance. He said the statement of intent indicated that the bill came about because of the obstetrics crisis in Montana.

He said that when there was a low volume of business on a particular line of insurance, premiums were inclined to sky rocket, and with a small volume of business and claims there wasn't the actuarial data necessary for an adequate projection for setting a premium rate. He said that when the insurance industry was confronted with that situation, they set rates on a national basis, and that would require Montanans to pay rates based on obstetrics malpractice data that was not comparable with the conditions of Montana. He stated that in order for the insurance commissioner to evaluate rates, and base them on similar situations, the bill would allow collection of data from states which had conditions more like those in Montana.

List of Testifying Proponents and What Group They Represent:

Jim Borchardt - State Auditor's Office

List of Testifying Opponents and What Group They Represent:

Bonnie Tippy - Alliance of Montana Insurers
Jacqueline Terrell - American Insurance Association
Steve Browning - State Farm Mutual Insurance Company
Gene Phillips - National Association of Insurers

Testimony: Jim Borchardt said HB 247 was to insure that selective insurance premium rates in Montana were not excessive, and those rates were based on Montana's experience and the experience of states with similar

SENATE STANDING COMMITTEE REPORT

February 28, 1989

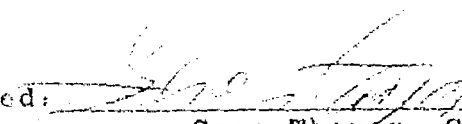
MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 262 (third reading copy -- blue), respectfully report that HB 262 be amended and as so amended be concurred in:

Sponsor: Hoffman, R. (Boylan)

1. Page 10, line 13.
Strike: "less"
Insert: "excluding"

AND AS AMENDED BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

W.C.
2/28/89
1.43
P.M.

scribb262.228

House Bill 262

EXHIBIT NO. 2
DATE 2/28/89
BILL NO. HB262

Proposed Amendment
Presented by Jim Borchardt
Montana Insurance Department
444-2040
February 28, 1989

1) Page 10, line 13.
Following: "indebtedness on the date of death,"
Strike: "less"
Insert: "excluding"

INS 514-4

TESTIMONY ON HOUSE BILL 262
STATE AUDITOR'S OFFICE
February 28, 1989

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*(Under current law, if the amount of the indebtedness is \$15,000 or less, the amount of credit life insurance must equal

2/28/87

the amount of the indebtedness. If the amount of the indebtedness exceeds \$15,000, then the amount of the credit life insurance may not exceed, but may be less than, the amount of the indebtedness.)

III. Amendment

To address an industry concern over a possible misinterpretation in the bill, I have prepared an amendment which will clarify that problem. The amendment (a copy of which is provided for you) relates to page 10, line 13 and helps to define "the actual amount of unpaid indebtedness on the date of death."

IV. Conclusion

House Bill 262 updates Montana's credit life and credit disability insurance laws and makes them more like the laws in surrounding states. The State Auditor's Office urges this committee to give House Bill 262 a "do pass" recommendation.